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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/415,052	10/08/1999	RANJIT N. NOTANI	020431.0560	4247

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EXAMINER

ELISCA, PIERRE E

ART UNIT PAPER NUMBER

3621

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/415,052	<b>Applicant(s)</b> NOTANI, RANJIT N.	
	<b>Examiner</b> Pierre E. Elisca	<b>Art Unit</b> 3621	

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2-8, 10-18 and 20-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-7, 10-13, 16, 18-22, 25, 26, 28-34, 36-39 and 41-44 is/are rejected.
- 7) ☒ Claim(s) 2, 8, 14, 17, 23, 24, 27, 35 and 40 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. This office action is in response to Applicant's response filed on 12/28/2005.
2. Claims 2-8, 10-18, and 20-44 are pending.

***Allowable Subject Matter***

3. Claims 2, 8, 14, 17, 23, 24, 27, 35 and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-7, 10-13, 16, 18-22, 25, 26, 28-34, 36-39 and 41-44 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Guck (U.S. Pat. NO. 5,911, 776) in view of Slaughter et al. (U.S. pat. No. 6,421,787).

**As per claims 3-6, 10-13, 25, 26, 28-33 and 44 Guck substantially discloses a network that provides a server using an object-database enables an author to create**

Art Unit: 3621

and store an original document, as a source file with a first format (which is seen to read as Applicant's claimed invention wherein it is stated that a system for performing a business process), comprising:

a first version of a business application identified using a first version identifier and executable by a first client to perform a business process, the first client being coupled to a second client using a communication link, a second version of the business application identified using a second version identifier being executable by the second client to perform the business process (see., abstract, col 4, lines 41-67, col 5, lines 1-7. Applicant should duly note that a first version of a business application is the process of enabling an author to create and store an original document or first document or first application, and the first client and the second client see., fig 1, and also the second version application is the process of updating and retrieve information as files or file-converter and then published in any specific format to multiple numbers of and type of receiving appliances).

**It is to be noted that Guck** fails to explicitly disclose that if the first version is higher than the second version, to exercise control over execution of the business process, and if the second version is higher than the first version to control the execution of the process (which is readable as if the first user protocol is higher than the second user protocol then exercise control over the business process and vice versa, or the first user who processes the first request will have control over the business process). Applicant should duly note that a user with a faster protocol, should have control over the business process.

Art Unit: 3621

However, Slaughter discloses a cluster distribution in which each node of the cluster access to each storage device of the cluster using a faster protocol such as Low Latency (see., col 10, lines 8-15). Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the format conversion of Guck by including a faster protocol as taught by Slaughter because such modification would provide the format conversion of Guck with the enhanced necessary to have a faster network communication or business process.

**As per claim 7, Guck** discloses the claimed limitations, wherein the first version of the business application further comprises a business process module operable to generate a business message associated with the business process for retrieval by the second client, the business message being generated according to the first version (see., abstract, col 4, lines 41-67, col 5, lines 1-7. Applicant should duly note that a first version of a business application is the process of enabling an author to create, update and store an original document or first document or first application, which is automatically reformatted to match the requirements of the receiver's appliance, and the first client and the second client see., fig 1, and also the second version application is the process of updating and retrieve information as files or file-converter and then published in any specific format to multiple numbers of and type of receiving appliances).

**As per claims 15, 16, 18, 20-22 and 34, 36-43 Guck substantially discloses a network that provides a server using an object-database enables an author to create and store an original document, as a source file with a first format (which is seen to read as Applicant's claimed invention wherein it is stated that a system for performing a business process), comprising:**

at a first client, determining a first version identifier associated with a first version of a business application used by the first client to perform a business process; at the first client, determining a second version identifier associated with a second version of the business application used by a second client to perform the business process (see., abstract, col 4, lines 41-67, col 5, lines 1-7. Applicant should duly note that a first version of a business application is the process of enabling an author to create and store an original document or first document or first application, and the first client and the second client see., fig 1, and also the second version application is the process of updating and retrieve information as files or file-converter and then published in any specific format to multiple numbers of and type of receiving appliances).

**It is to be noted that Guck fails to explicitly disclose that if the first version is higher that the second version, to exercise control over execution of the business process, and if the second version is higher that the first version to control the execution of the process (which is readable as if the first user protocol is higher than the second user protocol then exercise control over the business process and vice versa, or the first user who processes the first request will have control over the business process). Applicant**

Art Unit: 3621

should duly note that a user with a faster protocol, should have control over the business process.

However, Slaughter discloses a cluster distribution in which each node of the cluster access to each storage device of the cluster using a faster protocol such as Low Latency (see., col 10, lines 8-15). Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the format conversion of Guck by including a faster protocol as taught by Slaughter because such modification would provide the format conversion of Guck with the enhanced necessary to have a faster network communication or business process.

#### RESPONSE TO ARGUMENTS

6. Applicant's arguments filed on 2/8/2004 have been fully considered but they are not persuasive.

#### REMARKS

7. In response to Applicant's argument filed on 08/14/2003, Applicant argues that:

a. "the Examiner must give proper weight and meaning to Applicant's recited first and second versions of the single business application and the recited first and second versions of the single business application perform". However, the Examiner respectfully disagrees, as those limitations are explicitly recited in the previous Office action, specifically in the Office action mailed on 07/22/2003, see., abstract, col 4, lines 41-67, col 5, lines 1-7. **Applicant should note that a first version of a business application is the process of enabling an author to create and store an original**

Art Unit: 3621

**document or first document or first application, and the first client and the second client see., fig 1, and also the second version application is the process of updating and retrieve information as files or file-converter and then published in any specific format to multiple numbers of and type of receiving appliances).**

b. Applicant argues that neither Guck nor Slaughter taken alone or in combination do not teach or suggest: if the first version is higher that the second version, to exercise control over execution of the business process, and if the second version is higher that the first version to control the execution of the process: **(which is readable as if the first user protocol is higher than the second user protocol then exercise control over the business process and vice versa, or the first user who process the first request will have control over the business process). Applicant should duly note that a user with a faster protocol, should have control over the business process.**

However, as mentioned in the previous Office actions mailed on 10/3/2002, 02/24/2003, and 07/22/2003, Slaughter discloses a cluster distribution in which each node of the cluster access to each storage device of the cluster using a faster protocol such as Low Latency (see., col 10, lines 8-15). Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the format conversion of Guck by including a faster protocol as taught by Slaughter because such modification would provide the format conversion of Guck with the enhanced necessary to have a faster network communication or business process. Therefore, Applicant's argument is moot.



Art Unit: 3621

c. "Applicant notes that the original document disclosed in Guck can not properly be equated with –first application—. Based upon foregoing rejection indicated above, it is believed that Guck discloses this limitation in col 4, lines 41-67, col 5, lines 1-7. Applicant should note that a first version of a business application is the process of enabling an author to create and store an **original document or first document or first application**.

d. "Applicant also maintains that Guck and Slaughter cannot be combined", the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

The rationale to modify or combine the prior art does not have to be expressly stated in the prior art; the rationale may be expressly or impliedly contained in the prior art or it may be reasoned from knowledge generally available to one of ordinary skill in the art, established scientific principles, or legal precedent established by prior case law. *In re Fine*, 837 F.2d 1071, 5USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). See also *In re Eli Lilli & Co.*, 902 F.2d 943, 14 USPQ2d 1741 (Fed. Cir. 1990) (discussion of reliance on legal precedent); *In re Nilssen*, 851 F.2d 1401, 7USPQ2d 1500 (Fed. Cir. 1988) (references do not have to explicitly suggest combining teachings); *Ex parte Clapp*, 227 USPQ 972 (Bd. Pat. App & Inter);

Art Unit: 3621

and Es parte Levengood, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993) (reliance on logic and sound scientific reasoning).

Also in reference to Ex parte Levengood, 28 USPQ2d, 1301, the court stated that AObviousness is a legal conclusion, the determination of which is a question of patent law.

Motivation for combining the teachings of the various references need not to explicitly found in the reference themselves, In re Keller, 642 F.2d 413, 208USPQ 871 (CCPA 1981). Indeed, the Examiner may provide an explanation based on logic and sound scientific reasoning that will support a holding of obviousness. In re Soli, 317 F.2d 941 137 USPQ 797 (CCPA 1963).≡

e. Applicant also argues that the Examiner again **appears** to equate first and second user protocols with Applicant's recited first and second versions of the single business. As stated above, the first version of a business application is the process of enabling an author to create and store an original document or first document or first application, and the first client and the second client see., fig 1, and also the second version application is the process of updating and retrieve information as files or file-converter and then published in any specific format to multiple numbers of and type of receiving appliances).

### ***Conclusion***

Art Unit: 3621

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571 272 6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Pierre Eddy Elisca

**Primary Patent Examiner**

**March 15, 2006**